

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

COMMONWEALTH SCIENTIFIC AND
INDUSTRIAL RESEARCH
ORGANISATION,

Plaintiff,

v.

TOSHIBA AMERICA INFORMATION
SYSTEMS, INC., et al.,

Defendants.

§ Case No. 6:06-CV-550 (LED)
§ Jury Trial Demanded

AGREED MOTION TO DISMISS WITHOUT PREJUDICE

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the terms of a separate Memorandum of Understanding, the parties Commonwealth Scientific and Industrial Research Organisation (“CSIRO”) and Toshiba America Information Systems, Inc. (“TAIS”) have agreed to settle, adjust, and compromise all claims and counterclaims against each other in the above-captioned action. The parties, therefore, move this Court to dismiss all claims by CSIRO against TAIS, and all claims by TAIS against CSIRO, made therein without prejudice to the re-filing of same. Upon receipt of certain payments from TAIS, the parties will file an Agreed Motion to Dismiss With Prejudice.

CSIRO and TAIS further move the Court to order that all costs and expenses relating to this litigation (including attorney and expert fees and expenses) shall be borne solely by the party incurring same.

A proposed Order accompanies this motion.

AGREED:

Dated: April 21, 2009

By: /s/ Daniel J. Furniss

Daniel J. Furniss (CA State Bar No. 73531)
djfurniss@townsend.com
Gary H. Ritchey (CA State Bar No. 136209)
ghritchey@townsend.com
Robert D. Tadlock (CA State Bar No. 238479)
rdtadlock@townsend.com
John E. Lord (CA State Bar No. 216111)
jelord@townsend.com
TOWNSEND AND TOWNSEND AND CREW LLP
379 Lytton Avenue
Palo Alto, CA 94301
Tel.: (650) 326-2400/Fax: (650) 326-2422

S. Calvin Capshaw (State Bar No. 03783900)
ccapshaw@capshawlaw.com
CAPSHAW DERIEUX LLP
1127 Judson Road, Suite 220,
P.O. Box 3999
Longview, Texas 75601-5157
Tel.: (903) 236-9800/Fax: (903) 236-8787

Attorneys for Defendant & Counterclaimant,
COMMONWEALTH SCIENTIFIC AND
INDUSTRIAL RESEARCH ORGANISATION

Dated: April 21, 2009

By: /s/ Irfan A. Lateef by permission DJF
Irfan A. Lateef (*pro hac vice*)
Email: LitTAISL.007L@kmob.com
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Fl.
Irvine, CA 92614
Tel: (949) 760-0404
Fax: (949) 760-9502

Melvin Wilcox (TX State Bar 21454800)
Email: mrw@yw-lawfirm.com
Yarbrough Wilcox, PLLC
100 E. Ferguson, Suite 1015
Tyler, TX 75702
Tel: (903) 595-1133
Fax: (903) 595-0191
Counsel for TOSHIBA AMERICA INFORMATION
SYSTEMS, INC.

61910950 v1

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 21st day of April, 2009, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Daniel J. Furniss
Daniel J. Furniss

61910950 v1